

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

Case No. 1:22-cr-00048-TMB-NC

SECOND ORDER ON PROPOSED
LIMITING INSTRUCTIONS

ORDER

Before the Court are Defendants Keith Mitsuyoshi Kaneshiro, Dennis Kuniyuki Mitsunaga, Terri Ann Otani, Aaron Shunichi Fujii, Chad Michael McDonald and Sheri Jean Tanaka's ("Defendants") Notice of Defendants' Proposed Limiting Instructions and Supplement;¹ the United States' Amended Proposed Limiting Instructions and Objections;² and the Parties' Joint Proposed Limiting Instructions;³ United States' Notice of Proposed Limiting Instruction and Objections to Defendant Mitsunaga's Proposed

¹ Dkts. 546 and 551 (Notice of Defendants Proposed Limiting Instructions) and (Notice of Supplement to Defendants' Proposed Limiting Instructions).

² Dkt. 547 (United States' Amended Proposed Limiting Instructions and Objections to Defendants' Proposed Instructions).

³ Dkt. 544 (Parties' Joint Proposed Limiting Instructions).

Limiting Instruction;⁴ and Defendant Mitsunaga's Notice of Proposed Limiting Instructions.⁵ The matter is fully briefed. Here, the Court addresses the proposed limiting instructions regarding campaign finance by separate order, as indicated in the Court's first Order on Proposed Limiting Instructions at Docket 568.⁶

1. Political Campaign Donations

Based on the submissions of the parties, including the supplemental briefing, the Court AMENDS Limiting Instruction No. 4 at Docket 568, as set out below in track changes:

You are about to hear [OR HAVE HEARD] evidence of contributions made by the defendants, or other employees or affiliates of Mitsunaga & Associates, Inc., to politicians other than Keith Kaneshiro. This evidence ~~will~~ be is being [OR HAS BEEN] admitted only for limited purposes. You may consider this evidence only for its bearing, if any, on any defendant's motive, intent, knowledge, planning, and/or *modus operandi* ~~to commit~~ in connection with the charged offenses and for no other purposes.

Proposed *Amended* Limiting Instruction No. 4 applies for evidence of not only Mitsunaga's contributions, but of any of the Defendants' contributions to politicians other than Keith Kaneshiro. Proposed *Amended* Limiting Instruction No. 4 replaces the former Limiting Instruction No. 4.

⁴ Dkt. 563 (Notice of United States' Proposed Limiting Instruction and Objections to Defendant Mitsunaga's Proposed Limiting Instruction).

⁵ Dkt. 565 (Notice of Proposed Limiting Instruction by Defendant Mitsunaga).

⁶ Dkt. 568 (Order on Proposed Limiting Instructions) at 2 n.4.

2. Allegations of Campaign Finance Violations

Based on the submissions of the parties, including the supplemental briefing, the Court ADOPTS with modifications the Defendants' Proposed Limiting Instruction No. 9,⁷ as set out below in track changes:

You are about to hear [OR HAVE HEARD] evidence that a defendant or witness in this case may have committed a violation of state campaign finance laws. The defendants ~~in this case~~ are not charged with campaign finance law violations ~~in this case~~. You may consider this evidence only for its bearing, if any, on any defendant's ~~the purpose of deciding whether the defendants had the~~ motive, intent, knowledge, planning, and/or *modus operandi* in connection with the charged offenses, and for no other purpose. ~~to commit the specific crimes charged in the First Superseding Indictment. You may not consider this evidence as proof that a defendant has a propensity to commit crimes or is a person of bad character.~~

Any objections to the attached Proposed Limiting Instructions must be submitted by **10:00 AM on March 28, 2024.**

IT IS SO ORDERED.

Dated this 27th day of March, 2024.

/s/ Timothy M. Burgess
TIMOTHY M. BURGESS
UNITED STATES DISTRICT JUDGE

⁷ Docket 551 at 14.

***Amended* Limiting Instruction No. 4:**⁸

You are about to hear [OR HAVE HEARD] evidence of contributions made by the defendants, or other employees or affiliates of Mitsunaga & Associates, Inc., to politicians other than Keith Kaneshiro. This evidence will be admitted only for limited purposes. You may consider this evidence only for its bearing, if any, on any defendant's motive, intent, knowledge, planning, and/or *modus operandi* in connection with the charged offenses, and for no other purpose.

⁸ Dkts. 568 and 589 (Second Order on Proposed Limiting Instructions).

Limiting Instruction No. 12:

You are about to hear [OR HAVE HEARD] evidence that a defendant or witness in this case may have committed a violation of state campaign finance laws. The defendants in this case are not charged with campaign finance law violations. You may consider this evidence only for its bearing, if any, on any defendant's motive, intent, knowledge, planning, and/or *modus operandi* in connection with the charged offenses, and for no other purpose.